Filed 3/15/10 In re N.F. CA3

NOT TO BE PUBLISHED

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(San Joaquin)

In re N.F., a Person Coming Under the Juvenile Court Law.	
THE PEOPLE, Plaintiff and Respondent, v. N.F., Defendant and Appellant.	C061420 (Super. Ct. No. 66965)

N.F., a minor, admitted charges of receiving stolen property (his mother's car), unlawful taking of a vehicle (his mother's car), hit and run, and driving without a license. The admissions were conditioned upon the understanding that if he was found unsuitable for deferred entry of judgment, one of the car theft offenses would be reduced to a misdemeanor with the remaining counts being dismissed. The minor was found unsuitable for deferred entry of judgment, the court reduced the

receiving stolen property offense to a misdemeanor, and the minor was placed on probation.

On appeal, the minor contends that "[b]ecause there is no factual basis to support [his] admission, the admission and true finding on [the receiving stolen property charge] should be reversed." We disagree.

DISCUSSION

The principles set forth in Penal Code section 1192.5, governing the trial court's acceptance of a defendant's guilty or no contest plea, are applicable in juvenile proceedings. (*In re Jermaine B.* (1999) 69 Cal.App.4th 634, 640.) "The factual basis required by section 1192.5 does not require more than establishing a prima facie factual basis for the charges. [Citation.] It is not necessary for the trial court to interrogate the defendant about possible defenses to the charged crime [citation], nor does the trial court have to be convinced of defendant's guilt. [Citations.] The colloquy that took place in *People v. Ivester* (1991) 235 Cal.App.3d 328, 338-339 [286 Cal.Rptr 540], which the court upheld as a sufficient factual basis for the plea, is illustrative of this point. The trial judge engaged the defendant and his codefendant wife in a factual inquiry, beginning with 'what did you do that makes you think you are guilty of these offenses?' (*Id.* at p. 338.) While defendant Ivester's responses to the factual inquiry *left some ambiguity as to the mental state for the charged offense*, Ivester's statement that '"I had a methamphetamine lab going in the residence"' was held a sufficient factual basis under

section 1192.5 for the plea. [Citation.]" (*People v. Holmes* (2004) 32 Cal.4th 432, 441-442, fn. omitted & italics added.)

Here, the following colloquy occurred between the court and the minor: "THE COURT: All right. These are the charges: Count No. 1 states that on or about 1/16/09, [N.F.] did commit a felony, a violation of Section 10851(a) of the California Vehicle Code, unlawful driving or taking of a vehicle, a 2000 Mazda 626, personal property of [P.F.] without the consent of and with the intent to permanently or temporarily deprive said owner of title to and possession of said vehicle. [¶] Do you admit the truth of the Count No. 1? [¶] THE MINOR: Yes. [¶] . . . [¶] THE COURT: Count No. 2 states that on or about 1/16/09, [N.F.] did commit a felony, a violation of Section 496(d) of the California Penal Code, receiving stolen property, motor vehicle, to wit, a 2000 Mazda 626. [¶] Do you admit the truth of the Count No. 2? [¶] THE MINOR: Yes."

The minor argues the factual basis was inadequate because even though defense counsel did stipulate to a factual basis for the admission,[1] counsel did not refer to any specific document to support that stipulation, therefore "there is no concrete set of facts for this court to review to determine the adequacy of the factual basis."

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[1] Counsel stipulated that there was a factual basis for the admission, but refused to stipulate to that basis being found in the police report.

The court's recital of count 1 described the offense committed (unlawful driving or taking of a vehicle), the date of the offense (January 16, 2009), the victim of the offense (P.F.), the vehicle taken (2000 Mazda 626), and the intent required in the taking (to permanently or temporarily deprive said owner of title to and possession of the vehicle). When the court asked the minor if what the court had said with regard to count 1 was true, he responded, "Yes." Thus, notwithstanding that the court later dismissed count 1, the minor admitted as true each of the factual averments recited by the court.

The court's recitation of count 2 described the offense committed (receiving stolen property), the date upon which the property was stolen (January 16, 2009), and the property stolen (2000 Mazda 626). Again, the minor admitted the factual averments were true.

Had the court asked the minor what he did that made him believe he had committed the offense charged in count 1, as was done in *People v. Ivester, supra*, 235 Cal.App.3d 328, and the minor had replied that on January 16, 2009, he took P.F.'s 2000 Mazda 626 with the intent to permanently or temporarily deprive her of her vehicle, that would have constituted a sufficient factual basis for each admission. We see no meaningful distinction between the court reciting the facts forming the basis for the offense and obtaining the minor's admission of their truth and the minor's making the same recital and stating that was what he did. We are satisfied that the factual basis was adequate.

In his reply brief the minor argues that "even assuming the court's bare taking of the minor's admission itself could be construed to constitute an inquiry into the factual basis," it is still deficient because in taking the minor's admission "the court did not refer to the charging document[;] [t]he court's statement did not contain the name of the victim[;] [t]he court's statement did not contain the place of the charged offense[;] [and the] court's statement did not contain 'a brief description of the factual basis for the charged offense.'"

The court's introductory statements that "[t]hese are the charges: Count No. 1 states" and that "Count 2 states" are clear references to the charging document, to wit, the Welfare and Institutions Code section 602 petition filed on behalf of the minor. As for lack of a victim's name in count 2, it was abundantly clear that counts 1 and 2 described the same vehicle that was taken, and that victim was P.F. Indeed, the record shows that just before the minor admitted counts 1 and 2, P.F. was present and stated that she is the minor's mother and that it was her car that was taken. There was no need to state the obvious. As to the minor's complaint the court's statement failed to state "the place of the charged offense," such a failure goes to the court's jurisdiction over the minor and the offense, and not to a factual basis for the offense. Finally, as to the claim that the court's statement did not contain a brief description of the factual basis for the charged offense, the minor's admission of the facts stated in count 1, to wit, that on "1/16/09" he unlawfully took a 2000 Mazda 626 with the

intent to permanently or temporarily deprive the owner of that property was, as noted above, a sufficient factual basis to support the receiving stolen property charged in count 2.

DISPOSITION

The judgment is affirmed.

CANTIL-SAKAUYE, J.

We concur:

SCOTLAND, P. J.

SIMS, J.